

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 LARRY J. WEBSTER,) No. CIV S-93-0306 LKK DAD DP
11 Petitioner,) **DEATH PENALTY CASE**
12 vs.)
13 ROBERT L. AYERS,) **ORDER RE MOTION TO STRIKE**
14 Warden of the California State Prison) **EVIDENCE AND SCHEDULING**
15 at San Quentin,)
16 Respondent.)
17 _____)

18 This capital habeas action came before the Court on November 7, 2008, for argument on
19 respondent's Motion to Exclude and/or Strike Evidence and for a status conference. Deputy
20 Attorney General Catherine Chatman appeared on behalf of respondent. James S. Thomson and
21 Timothy J. Foley appeared on behalf of petitioner.

22 Having considered the written materials submitted in connection with the motion and the
23 status conference, and after hearing from the parties, and good cause appearing, the Court orders
24 as follows:

25 1. The Motion to Exclude and/or Strike Evidence is Denied for reasons expressed
26 on the record.

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2. The scheduling order is modified as follows:

A. Depositions on the appellate process claim shall be completed by February 13, 2009.

B. The post-evidentiary briefing on the appellate process claim shall proceed as follows: The petitioner shall file a brief by April 14, 2009; the respondent shall file a brief by May 15, 2009; the petitioner shall file any reply brief by June 1, 2009.

- C. A telephonic status conference is set for January 15, 2009, at 9:00.
- D. The hearing currently set for December 10, 2008, is vacated.

DATED: November 17, 2008.

Dale A. Drozd
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

Ddad1/orders.capital/webster0306.ord.motstrike

submitted by:

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